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असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 17th July, 1992/Asadha 26, 1914 (Saka)

The following President's Act is published for general information:—

THE JAMMU AND KASHMIR FOREST (CONSERVATION)
ACT, 1992

No. 5 of 1992

Enacted by the President in the Forty-third Year of the Republic of India.

An Act to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto.

21 of 1992. In exercise of the powers conferred by section 3 of the Jammu and Kashmir State Legislature (Delegation of Powers) Act, 1992 the President is pleased to enact as follows:—

1. (1) This Act may be called the Jammu and Kashmir Forest (Conservation) Act, 1992.

(2) It extends to the whole of the State of Jammu and Kashmir.

(3) It shall come into force at once.

Short title,
extent and
commence-
ment.

Restriction
on de-
notifying
of de-
marcated
forest or
dereserva-
tion or
use of
forest land
for non-
forest pur-
pose.

2. Notwithstanding anything contained in any other law for the time being in force—

(a) the Government shall not, except on a resolution of the Council of Ministers—

(i) make or issue any order or notification directing that any demarcated forest or any portion thereof shall cease to be a demarcated forest;

(ii) make any order directing that any forest land or any portion thereof may be used for non-forest purpose;

(b) no officer of the Government or other authority shall have power to make or issue any order or notification in respect of any matter specified in clause (a).

Explanation I.—For the purpose of this section “non-forest purpose” means the breaking up or clearing of any forest land or portion thereof for—

(a) the cultivation of oil bearing plants, horticultural crops or medicinal plants;

(b) any purpose other than re-afforestation, but does not include any work relating or ancillary to conservation, development and management of forest and wildlife, namely, the establishment of check posts, firelines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipe lines or other like purposes.

Explanation II.—For the purposes of this section, “demarcated forest” shall have the same meaning as assigned to it in the Forest Act, Samvat 1987 (1923 A.D.)

Jammu
and
Kashmir
Act II of
1987.

Constitu-
tion of
Advisory
Committee.

3. The Government may constitute a committee consisting of such number of persons as it may deem fit to advise the Government with regard to—

(i) any matter referred to in section 2;

(ii) any other matter connected with the conservation of forests which may be referred to it by the Government.

Penalty
for contra-
vention of
the pro-
visions of
the Act.

4. Whoever contravenes or abets the contravention of any of the provisions of section 2 shall be punishable with simple imprisonment for a period which may extend to fifteen days.

Offences by
authorities
and
Govern-
ment De-
partment.

5. (1) Where any offence under this Act has been committed—

(a) by any department of Government, the Head of the Department; or

(b) by any authority, every person who, at the time the offence was committed, was directly incharge of, and was responsible to, the authority for the conduct of the business of the authority as well as the authority,

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the Head of the Department, or any person referred to in clause (b) liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence punishable under this Act has been committed by a Department of Government or any authority referred to in clause (b) of sub-section (1) and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department or in the case of any authority, any person other than the persons referred to in clause (b) of sub-section (1), such officer or persons shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

6. The Government may, by notification in the Government Gazette, make rules for carrying out the purposes of this Act.

Power to
make
Rules.

Governor's
Act,
No. XXIV
of 1990.

7. (1) The Jammu and Kashmir Forest (Conservation) Act, 1990 is hereby repealed.

Repeal and
saving.

(2) Notwithstanding such repeal, anything done or any action taken under the Jammu and Kashmir Forest (Conservation) Act, 1990 shall be deemed to have been done or taken under the corresponding provisions of this Act.

R. VENKATARAMAN,

President.

K. L. MOHANPURIA,

Secy. to the Govt. of India.

Reasons for the enactment

In exercise of the powers conferred on him under section 92 of the Constitution of Jammu and Kashmir, the Governor of Jammu and Kashmir enacted the Jammu and Kashmir Forest (Conservation) Act, 1990. Since, in terms of section 92, enactments made by the Governor during Governor's rule are temporary in nature, the Jammu and Kashmir Forest (Conservation) Act, 1990 will cease to have effect with effect from the 18th day of July, 1992. The Government of Jammu and Kashmir are of the view that the validity of the provisions of the Jammu and Kashmir Forest (Conservation) Act, 1990 requires to be continued and should be extended by an appropriate legislation since the State is presently under President's rule. Parliament has, under article 357(1)(a) of the Constitution, conferred on the President the power of the Legislature of the State of Jammu and Kashmir to make laws *vide* the Jammu and Kashmir State Legislature (Delegation of Powers) Act, 1992.

2. Under the proviso to sub-section (2) of section 3 of the Jammu and Kashmir State Legislature (Delegation of Powers) Act, 1992, the President shall, before enacting any President's Act, whenever he considers it practicable to do so, consult a Committee constituted for the purpose, consisting of members of both Houses of Parliament. In view of the urgency of the matter, it is not practicable to consult the Committee. This Bill is, accordingly, being enacted without reference to the Committee.

SAMAR SINGH,

*Addl. Secretary to the Government of India,
Ministry of Environment and Forests.*